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In re Application of :
Neumeier et al. :
Application No. 09/868,156 :
PCT No.: PCT/EP99/07204 :
Int. Filing Date: 29 September 1999 : DECISION
Priority Date: 15 December 1998 :
Atty. Docket No.: SCHO0059 :
For: Method Of Producing A Micro- :
Electromechanical Element :

This is in response to the petition for revival filed on 13 January 2003. The submission has been treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment.

BACKGROUND

This international application was filed on 29 September 1999 and claimed an earlier priority date of 15 December 1998. The International Bureau transmitted a copy of the published international application to the USPTO on 22 June 2000. A Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Accordingly, the 30 month time period for paying the basic national fee in the United States expired at midnight on 15 June 2001.

On 12 June 2001, applicants filed, *inter alia*, the basic national fee.

On 23 July 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an executed oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

On 21 November 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the United States for failure to timely reply to the Notification of Missing Requirements.

DISCUSSION

Applicants urge that, on 14 September 2001, a timely response was filed to the Notification of Missing Requirements of 23 July 2001. In support of this assertion, applicants provide a copy of a return postcard receipt, stamped as "Rec'd PCT/PTO 14 SEP 2001," and

itemizing inter alia an "Oath/Declaration/Power of Attorney," as well as "a copy of the response." MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, the papers filed with the petition are accepted as copies of the corresponding papers as itemized on the postcard receipt and filed on 14 September 2001. The correspondence filed on 14 September 2001 included an executed declaration of the inventors and a surcharge under 37 CFR 1.492(e). As such, applicants timely replied to the Notification of Missing Requirements mailed on 23 July 2001. Accordingly, it would be appropriate to withdraw the holding of abandonment.

DECISION

The petition is **GRANTED**.

The holding of abandonment is hereby **WITHDRAWN** and the Notification of Abandonment mailed on 21 November 2002 is **VACATED**.

This application is being forwarded to the National Stage Processing Branch for further processing. The date of this application under 35 U.S.C. 371 (c) (1), (2) and (4) is **14 September 2001**.



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